

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

Southern District of Texas



McAllen Division

United States District Court
Southern District of Texas
FILED

MAY 22 2023

Nathan Ochsner, Clerk

Damion Thomas Brown

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Hidalgo County Adult Probation, Director Faustino Lopez, Officer Rosa I. Centeno, & Officer Brandy Garza

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Damion Thomas Brown		
Address	1400 Bobwhite Ave.		
	Donna	TX	78537
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Hidalgo		
Telephone Number	(956)358-3360		
E-Mail Address	damionb043@icloud.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Hidalgo County Adult Probation		
Job or Title (if known)			
Address	3100 US-281		
	Edinburg	TX	78539
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Hidalgo		
Telephone Number	(956) 587-6000		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	Faustino Lopez		
Job or Title (if known)	Director of Hidalgo County Probation		
Address	3100 US-281		
	Edinburg	TX	78539
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Hidalgo		
Telephone Number	(956)587-6000		
E-Mail Address (if known)			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)**Defendant No. 3**

Name	Officer Rosie I. Centeno		
Job or Title <i>(if known)</i>	Probation Officer		
Address	3100 US-281		
	Edinburg	TX	78539
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Hidalgo		
Telephone Number	(956)587-6000		
E-Mail Address <i>(if known)</i>	rosa.centeno@hidalgocountycscd.org		
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 4

Name	Officer Brandy Garza		
Job or Title <i>(if known)</i>	Probation Officer		
Address	3100 US-281		
	Edinburg	TX	78539
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Hidalgo		
Telephone Number	(956)587-6000		
E-Mail Address <i>(if known)</i>	brandy.garza@hidalgocountycscd.org		
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? Americans with Disabilities Act of 1990 Sec. 12131. Definitions: As used in this subchapter: (1) Public entity The term “ public entity” means (A) any State or local government; (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) of title 49). (2) Qualified individual with a disability The term “ qualified individual with a disability”

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- Hidalgo County Adult Probation: Damion Thomas Brown has been a client of the Hidalgo County Adult Probation Department since 5/2022. Mr. Brown has been requesting reasonable accommodations to access programs and or services that the Hidalgo County Adult Probation office provides. Mr. Brown has dual disabilities, one mobility and the second vision. Mr. Brown suffers from a debilitating disease. He is a fully protected class member. The Department hasn't issued Mr. Brown 'Reasonable

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
These events have taken place in the county of Hidalgo over the telephone and via email.
- B. What date and approximate time did the events giving rise to your claim(s) occur?
Hidalgo County Adult Probation: 5/2022 1301 hours to On-Going
Faustino Lopez (Director of Hidalgo County Probation): 5/2022 1301 hours to On-Going
Officer Rosie I. Centeno (Probation Officer): 10/2022 1401 hours to On-Going
Officer Brandy Garza (Probation Officer): 5/2023 1100 hours to On-Going
- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*
Hidalgo County Adult Probation: Damion Thomas Brown has been a client of the Hidalgo County Adult Probation Department since 5/2022. Mr. Brown has been requesting reasonable accommodations to access programs and or services that the Hidalgo County Adult Probation office provides. Mr. Brown has dual disabilities, one mobility and the second vision. Mr. Brown suffers from a debilitating disease. He is a fully protected class member. The Department hasn't issued Mr. Brown 'Reasonable Accommodations' to access programs and or services, so that plaintiff can successfully complete his court ordered probation.
Faustino Lopez (Director of Hidalgo County Probation): As the Director of Hidalgo County Probation Department, he is responsible for the department and their subsequent negative actions against Mr. Brown. Mr. Faustino and the Hidalgo County Probation Department have NOT given plaintiff 'Reasonable Accommodations' to access programs and or services that are needed for plaintiff to complete probation successfully. His organization has been non-compliant with Section 12132 of the Americans with Disabilities Act of 1990.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Class Member has suffered ' Mental Anguish' from the negative treatment that has been executed against the Member. This trauma of humiliation/shame that the Hidalgo Adult Probation Department has placed on the Class Member for being physically disabled has taken a sever tole on the Class Member.
Medical treatment has been on-going to deal with this sever trauma

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I would like the court to have Hidalgo County Probation Department grant ADA Reasonable Accommodations to the Class Member to be able to participate in programs and or services that are mandated by the court and the probation department. Not limited to medical transportation and special devices needed to see, read, or hear written material.

I would like the Hidalgo County Probation Department to be assessed and fined under the non-compliance law for ADA Compliance.

Class Member is requesting \$250 dollars a day since 5/2022 until verdict has been given. This is for NOT having ADA reasonable accommodations in place, to be able to participate in programs and or services that the court and Hidalgo County Probation Department has set forth.

If monetary compensation has been granted by the courts. I would like to have this settlement NOT to affect my eligibility for Medicare. Medicaid, SSDI. SNAP, State Waiver Program and and all programs that the Class Member participates in for assistance.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 05/19/2023

Signature of Plaintiff

Printed Name of Plaintiff


Damion Thomas Brown

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

B) Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Americans with Disabilities Act of 1990 Sec. 12131. Definitions: *As used in this subchapter: (1) Public entity The term “public entity” means (A) any State or local government; (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 24102(4) of title 49). (2) Qualified individual with a disability the term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.*

Americans with Disabilities Act of 1990 Sec. 12132. Discrimination Subject: *to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.*

D) Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under the color of state or local law. If you are suing under Bivens, explain how each defendant acted under the color of federal law. Attach additional pages if needed.

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Under The Americans with Disabilities Act of 1990. It states in **Sec. 12132. Discrimination:** Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

NOTE: A Formal complaint to the DOJ was made on 3/10/2023 with a log number of (**#266407-CLJ**). No response has been issued.

Faustino Lopez (Director of Hidalgo County Probation): As the Director of Hidalgo County Probation Department, he is responsible for the department and their subsequent negative actions against Mr. Brown. Mr. Faustino and the Hidalgo County Probation Department have NOT given plaintiff 'Reasonable Accommodations' to access programs and or services that are needed for plaintiff to complete probation

successfully. His organization has been non-compliant with Section 12132 of the Americans with Disabilities Act of 1990.

Officer Rosie I. Centeno (Probation Officer): Plaintiff made an initial formal request via telephone to Ms. Centeno on 10/01/22 requesting 'Reasonable Accommodations' to be able to access the Probation Departments programs and or services that's required for the Class Member to be able to participate in .Ms. Centeno explained to plaintiff that 'Hidalgo County' does 'NOT' provide ADA Reasonable Accommodations for the mobility and vision impaired class members, and related services to be able to participate like the non-disabled person(s). Ms. Centeno did NOT provide 'Reasonable Accommodations' to Class Member. Ms. Centeno is liable for **NOT** complying with the Americans Disabilities Act of 1990 Section 12132.

NOTE: A Formal complaint to the DOJ was made on 1/18/2023 with a log number of (**#247456-HSX**) The DOJ did not move forward with the investigation of this complaint.

Officer Brandy Garza (Probation Officer): On 05/12/2023 at approximately 1100 hours I received a call from the Hidalgo County Adult Probation Department, from Officer Brandy Garza to inform me that the department will be requesting the DA to revoke my Community Supervision/Adult Probation. She explained to me that Hidalgo County Probation Department does NOT give reasonable accommodations to ADA Clients (Class Members), to be able to participate in programs and or services. I believe that I'm being RETALIATED against by Ms. Garza for being disabled and filing numerous complaints. Ms. Garza did NOT provide 'Reasonable Accommodations' to Class Member. Ms. Garza is liable for **NOT** complying with the Americans Disabilities Act of 1990 Section 12132.

NOTE: A Formal complaint to the DOJ was made on 5/12/2023 with a log number of (**#292994-RBC**). No response has been issued.

III. Statement of Claim State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed

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C). What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

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